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ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JAN 15 2008

at 1 o'clock and 30 min. P.M. S
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

RAYMOND WARE,)	CIVIL NO. 04-00671 HG/LEK
)	
Plaintiff,)	PLAINTIFF'S MOTION IN
)	LIMINE NO. 2; CERTIFICATE
vs.)	OF SERVICE
)	
MICHAEL CHERTOFF, Secretary,)	
Department of Homeland Security;)	
JOHN DOES 2-5,)	TRIAL DATE: February 5, 2008
)	TIME: 9:00 a.m.
Defendants.)	JUDGE: Hon. Helen Gillmor
_____)	

PLAINTIFF'S MOTION IN LIMINE NO. 2

COMES NOW, Plaintiff RAYMOND WARE, by and through his attorney,
Daphne E. Barbee, and hereby requests this Court to grant this Motion In Limine
No. 2 to prohibit testimony at trial concerning the granting of Summary Judgment
pertaining to the recertification test and termination for failure of this test.

This Court granted Summary Judgment and ruled that Plaintiff's failure of the recertification test was not discrimination. While Plaintiff respectfully disagrees with this Court's decision, Plaintiff requests that the jury not be notified of this Court's decision. Under Rule 403 of Federal Rules of Evidence, the effect of informing the jury that a Summary Judgment decision was already granted regarding the recertification test would be more prejudicial than probative of the issues in this particular case. For example, the jury may feel that since the Judge did not find discrimination on one of Plaintiff's claims, that therefore they too should find no discrimination. Therefore Plaintiff requests that this Court not allow testimony regarding its Summary Judgment decisions before the jury at trial.

DATED: Honolulu, Hawaii, 1-15-08.



DAPHNE E. BARBEE
Attorney for Plaintiff RAYMOND WARE

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

RAYMOND WARE,)	CIVIL NO. 04-00671 HG LEK
)	
Plaintiff,)	CERTIFICATE OF SERVICE
)	
vs.)	
)	
MICHAEL CHERTOFF, Secretary,)	
Department of Homeland Security;)	
JOHN DOES 2-5,)	
)	
Defendants.)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was duly served upon the following parties at their last known addresses by means of hand delivery on this date.

EDWARD H. KUBO, JR., ESQ.
U.S. Attorney
THOMAS A. HELPER, ESQ.
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Attorneys for Federal Defendants

DATED: Honolulu, Hawaii, 1-15-08.

DAPHNE E. BARBEE
Attorney for Plaintiff